

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
Northern District of New York

UNITED STATES OF AMERICA)

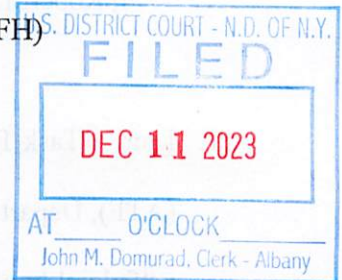
v.)

MUFID FAWAZ ALKHADER)

Case No. 1:23-MJ-725 (CFH)

Defendant)

AMENDED CRIMINAL COMPLAINT



I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date(s) of November 1, 2023 through December 7, 2023 in the county of Albany in the Northern District of New York the defendant violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. 922(g)(3) & 924(a)(8)	Possession of a Firearm by a Prohibited Person (Unlawful User of a Controlled Substance)
18 U.S.C. 371 & 922(a)(6)	Conspiracy to Make a False Statement During the Purchase of a Firearm

This criminal complaint is based on these facts:
Click here to enter text.

☒ Continued on the attached sheet.

/s/ Robert Lawyer II

Complainant's signature

ATF TFO Robert Lawyer II

Printed name and title

Attested to by the affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date: 12/11/2023

Judge's signature

City and State: Albany, New York

Hon. Christian F. Hummel, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF AMENDED CRIMINAL COMPLAINT

I, Robert Lawyer II, being duly sworn, do hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice, and have held that position since June 2022. Accordingly, I am a “federal law enforcement officer” within the meaning of Fed.R.Crim.P. 41(a)(2)(C), that is, a government agent engaged in enforcing the criminal laws and duly authorized by the Attorney General to request a search warrant. I am also an “investigative or law enforcement officer” within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516.
2. I am also a police officer employed with the Albany Police Department (APD) in Albany, New York, having served in that capacity since July 15, 2008. My current title at APD is Detective in the Criminal Investigation Unit (CIU). As a Detective within the CIU, I have been assigned to the Gun Violence Task Force, as part of which I routinely investigate firearm related crimes, and major offenses including assaults, robberies, homicides, and weapons possession. In fact, during my tenure as a police officer, I have participated in the investigation of numerous violent crimes and have also received training consisting of my attendance at two police academies.
3. This affidavit is founded on my personal knowledge based on my participation in this investigation, including the review of reports by myself and/or other law enforcement agents, communication with others who have personal knowledge of the events and circumstances described herein, and information gained through my training and experience. The information

outlined below is provided for the limited purpose of establishing probable cause and does not contain all details or all facts known to me regarding this investigation.

4. I submit this affidavit in support of a criminal complaint charging MUFID FAWAZ ALKHADER with violating:

- a. Title 18, United States Code, Sections 922(g)(3) & 924 (a)(8) (Possession of a Firearm by a Prohibited Person); and
- b. Title 18, United States Code, Sections 371 & 922(a)(6) (Conspiracy to Make a False Statement During the Purchase of a Firearm).

5. 18 U.S.C. § 922(g)(3) provides, in pertinent part, that

[i]t shall be unlawful for any person who is an unlawful user of . . . any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) . . . to possess in or affecting commerce, any firearm or ammunition . . . which has been shipped or transported in interstate or foreign commerce.

6. 18 U.S.C. § 922(a)(6) provides, in pertinent part, that:

[i]t shall be unlawful – (6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a . . . licensed dealer . . . , knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such . . . dealer . . . with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter.

PROBABLE CAUSE

Background on MUFID FAWAZ ALKHADER

7. MUFID FAWAZ ALKHADER is a 28-year-old male who was born in Iraq, and who is now a U.S. citizen. ALKHADER has recently lived in Schenectady, New York and has known Co-conspirator #1 for several months.

8. It appears that at some point prior to November, 2023, ALKHADER was the subject of some type of prior order of protection or restraining order. Agents are working to identify the order, its terms, and its expiration date.

Background on Co-Conspirator #1

9. For at least the past several weeks, Co-conspirator #1 has resided in the Northern District of New York.
10. Co-conspirator #1 has known ALKHADER for several months and considers him to be a friend.

Events Occurring Outside of the Temple Israel on December 7, 2023

11. Temple Israel is a Jewish synagogue located at 600 New Scotland Avenue, Albany, New York.
12. At approximately 2 p.m. on December 7, 2023, ALKHADER stood outside of the Temple Israel while possessing a Kel-Tec KS7 12-gauge pump shotgun bearing s/n QLF02. ALKHADER then fired two rounds from the aforementioned shotgun into the air. Shortly thereafter, members of the Albany Police Department encountered ALKHADER and he was taken into custody without incident.

The December 7, 2023 Interview of MUFID FAWAZ ALKHADER

13. While in the custody of the Albany Police Department on the afternoon of December 7, 2023, ALKHADER acknowledged and waived his *Miranda* rights, and agreed to speak with the law enforcement officers. During ALKHADER's interview with the law enforcement officers he said a variety of things, in sum and substance, including:
 - a. that events in the Middle East have impacted him;
 - b. that he regularly uses marijuana;

- c. that he wanted to purchase a shotgun, but because of a prior order of protection or restraining order, he did not think that he could purchase a firearm from a gun shop;
- d. that about a month ago he and Co-conspirator #1 discussed whether Co-conspirator #1 would be willing to purchase a shotgun that would ultimately be given to ALKHADER;
- e. that Co-conspirator #1 agreed to purchase a shotgun for ALKHADER;
- f. that ALKHADER gave Co-conspirator #1 approximately \$700 cash that would be used to pay the purchase price for the shotgun, plus an additional \$200 in cash for Co-conspirator #1's time and effort; and
- g. that about a month ago Co-conspirator #1 did in fact use the \$700 to purchase a shotgun for ALKHADER, and that shortly after Co-conspirator #1 purchased the shotgun, he/she gave the shotgun to ALKHADER.

The December 7, 2023 Interview of Co-conspirator #1

14. On December 7, 2023 Co-conspirator #1 was interviewed by law enforcement. During Co-conspirator #1's interview with law enforcement he/she said a variety of things, in sum and substance, including:

- a. That he had, for several months, been friends with ALKHADER as the two lived near each other;
- b. That ALKHADER said that he wanted to buy a shotgun, but was uncertain that he could because of some type of prior order of protection or restraining order against ALKHADER;
- c. That about a month ago he/she and ALKHADER discussed whether he/she would be willing to purchase a shotgun that would ultimately be given to ALKHADER;
- d. that he/she agreed to purchase a shotgun for ALKHADER;

- e. that ALKHADER gave him/her approximately \$700 cash that would be used to pay the purchase price for the shotgun, plus an additional \$200-\$300 in cash for Co-conspirator #1's time and effort; and
- f. that about a month ago he/she did in fact use the \$700 to purchase a shotgun for ALKHADER, and that shortly thereafter he/she gave the shotgun to ALKHADER.

Interstate Nexus Examination of the Kel-Tec Shotgun

- 15. ATF agents who have training and experience in conducting the interstate nexus examination of firearms have examined the Kel-Tec shotgun described above. Preliminary analysis indicates that the shotgun was manufactured by Kel-Tec outside the State of New York and has therefore traveled in interstate commerce.
- 16. Preliminary trace information on the Kel-Tec shotgun described above shows that the shotgun was purchased for \$599.99 on or about November 5, 2023 by Co-conspirator #1 from a licensed gun dealer (Federal Firearms License (FFL) holder) in Albany County.

The Firearms Transaction Record ATF Form 4473

- 17. ATF Form 4473 is a multi-page form prescribed by the ATF. The form is required to be completed when a person purchases a firearm from a FFL holder, such as a gun shop. In addition to requiring the purchaser to provide pedigree information, the form asks the purchaser a series of questions.
- 18. Question 21(a) of ATF Form 4473 asks the purchaser the following question:
 - a. Are you the actual transferee/buyer of all of the firearm(s) listed on this form and any continuation sheet(s) (ATF Form 5300.9A)? Warning: You are not the actual transferee/buyer if you are acquiring any of the firearm(s) on behalf of another person.

If you are not the actual transferee/buyer, the licensee cannot transfer any of the firearm(s) to you.

19. ATF Form 4473 contains a warning to the person signing the form. The warning states, in part, that the person signing the form is certifying that his/her answers to the questions on the form are "true, correct, and complete." The warning also advises that "I understand that answering 'yes' to question 21.a. if I am not the actual transferee/buyer is a crime punishable as a felony under Federal law, and may also violate State and/or local law."
20. In connection with Co-conspirator #1's November 5, 2023 purchase of the shotgun described above, Co-conspirator #1 completed, and submitted to the license gun dealer, ATF Form 4473. Co-conspirator's answer to question 21.a on ATF Form 4473 was to check the box that says "Yes".
21. Co-conspirator #1 signed the form which was dated November 5, 2023.

CONCLUSION

22. Based on the foregoing, your affiant submits that there is probable cause to conclude:
 - a. That on or about December 7, 2023, Albany County, in the Northern District of New York, defendant MUFID FAWAZ ALKHADER, knowing that he was an unlawful user of a controlled substance (marijuana) as defined in 21 U.S.C. Sec. 802, did knowingly possess a firearm, that is, a Kel-Tec KS7 12-gauge pump shotgun bearing s/n QLF02, said firearm having been shipped and transported in interstate commerce, in violation of Title 18, United States Code, Sections 922(g)(3) and 924(a)(8); and
 - b. That between about November 1, 2023 and about December 7, 2023, in Albany County and elsewhere, in the Northern District of New York, defendant MUFID FAWAZ ALKHADER, and others known and unknown, in connection with the acquisition and

attempted acquisition of a firearm, that is, a Kel-Tec KS7 12-gauge pump shotgun bearing s/n QLF02, from FFL#1, a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code, did conspire to knowingly make false and fictitious written statements to FFL#1, which statements were intended and likely to deceive FFL#1, as to a fact material to the lawfulness of such sale and acquisition of said firearm to the defendant under chapter 44 of Title 18, in that Co-conspirator #1 represented that the aforementioned shotgun was being purchased and acquired for himself/herself, when in fact the shotgun was being purchased and acquired for the defendant, in violation of Title 18, United States Code, Sections 371 & 922(a)(6) & 924(a)(2).

Attested to by the affiant,

/s/ Robert Lawyer II

Robert Lawyer II
ATF Task Force Officer

I, the Honorable Christian F. Hummel, United States Magistrate Judge, hereby acknowledge that this affidavit was attested by the affiant by telephone on December 11, 2023, in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure:



Hon. Christian F. Hummel
United States Magistrate Judge